

EXHIBIT 4

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

STEVEN R. KINCAID,

Plaintiff,

VS.

BANK OF AMERICA CORPORATION,

Defendant.

CIVIL ACTION NO.
04-11522-WGY

COPY

D E P O S I T I O N

OF

ALEC KOTOPOULOS

At Charlotte, North Carolina

June 2, 2005

Reporter: Christine A. Taylor
Notary Public



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1 MR. KANE: He had -- the attorney-client
2 relationship didn't have to exist with me.

3 MR. FINE: All right.

4 MR. KANE: It's the attorney representing the
5 bank.

6 BY MR. FINE:

7 Q. When you were at the bank, did you speak to
8 any attorney with regard to Mr. Kincaid?

9 A. I spoke to our advice and counsel -- our
10 internal advice and counsel group, like we did for any
11 employee where there were issues of performance. And
12 I believe -- Dick, you can follow me up on this -- I
13 believe some of those people may be legal people. I
14 know they were HR people for sure, but I believe legal
15 people.

16 Q. Who in the advice and counsel department did
17 you speak to regarding Mr. Kincaid?

18 A. Sheila would have spoken to them directly. I
19 was informed of that activity, if you will.

20 Q. Did you, yourself, speak to anybody --

21 A. No.

22 Q. -- in the advice and counsel department?

23 A. No.

24 Q. Did you, yourself, speak to any attorney at
25 the bank regarding Mr. Kincaid at any time?

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1 around?

2 A. I don't recall that.

3 Q. Okay. You do recall that you decided that he
4 should be given 90 days to turn things around?

5 A. Yes.

6 Q. That you decided?

7 A. Yes. Absolutely.

8 Q. But you decided -- not -- or you didn't say
9 to Ms. Burroughs that you should tell Mr. Kincaid that
10 he's being given 90 days; right?

11 A. Again, I don't remember these things. I
12 don't remember. That's the answer.

13 Q. Okay. So you might have told her to tell
14 Mr. Kincaid he's got 90 days?

15 A. Possibly.

16 Q. Okay. And you remember that you told
17 Ms. Burroughs to talk to advice and counsel?

18 A. Absolutely.

19 Q. And did Ms. Burroughs report back to you at
20 some point that she had spoken to advice and counsel
21 regarding Mr. Kincaid?

22 A. Yes.

23 Q. And what did she say?

24 A. She said we need to set up an action plan.

25 Q. And what did you understand action plan to

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1 mean?

2 A. Action plan was written documentation of what
3 Steve needed to achieve in a set timeframe such that a
4 determination would be made at the end of that
5 timeframe as to whether or not Steve would, you know,
6 still be around or would be terminated.

7 Q. Okay. And was that done?

8 A. Yes.

9 Q. And Mr. Kincaid was given a written action
10 plan telling him --

11 A. Yes.

12 Q. -- what you just said?

13 A. Yes.

14 Q. You're quite sure of that?

15 A. I am 90 percent sure that that was done.

16 Q. Now, when did you first discuss with Vipin
17 Mayar the possibility that Mr. Kincaid would be
18 terminated?

19 A. I don't know.

20 Q. Was it --

21 A. An educated guess would be around the time
22 when Sheila had talked with me and told me there were
23 issues. I always made him aware of issues.

24 Q. So it would have been your practice that when
25 you discussed for the first time the possibility of